

**SUBCHAPTER J : REGISTRATION OF CORRECTIVE ACTION  
SPECIALISTS AND PROJECT MANAGERS FOR PRODUCT  
STORAGE TANK REMEDIATION PROJECTS**

**§334.451. Applicability of Subchapter J.**

(a) In general.

(1) The types of corrective action services described in this section must be offered to be performed by a company or person duly registered under this subchapter as a corrective action specialist.

(2) The types of corrective action services described in this section must be performed by or coordinated by a company or person duly registered under this subchapter as a corrective action specialist.

(3) The types of corrective action services described in this section must be performed under the supervision of a person duly registered under this subchapter as a corrective action project manager.

(b) Types of tanks covered. The provisions of this subchapter are applicable to corrective action activities associated with all leaking underground and aboveground storage tanks regulated under this chapter.

(c) Types of services covered: corrective action services. Except as provided in §334.452 of this title (relating to Exemptions from Subchapter J), corrective action services to assess, remediate, and monitor contamination and close LPST sites are subject to the requirements of this subchapter. The corrective action services covered by this subchapter include, but are not limited to:

(1) measures to halt the spread of a release in progress or to prevent future or threatened spread of releases of regulated substances;

(2) installation of monitoring wells, soil borings or any necessary sampling, and any other actions reasonably necessary to determine the extent of contamination caused by a release;

(3) preparation of reports assessing the extent of contamination, monitoring the contamination, preparation of remedial action plans;

(4) site cleanup, including the removal, on-site or in-situ treatment, and treatment or disposal of surface and subsurface contamination;

(5) post-remediation monitoring and site closure; or

(6) any other action reasonably necessary to protect the public health and safety or the environment from harm or threatened harm due to releases as determined by the executive director.

(d) Time period covered. The requirements of this subchapter apply to all corrective action services commenced or offered to be performed on or after the effective date of these rules, unless a provision in this subchapter states otherwise.

**§334.452. Exemptions from Subchapter J.**

(a) The requirements of this subchapter do not apply to corrective action services which the party claiming the exemption can show were performed or offered to be performed at LPST sites which are:

(1) completely exempt from regulation under §334.3(a) of this title (relating to Statutory Exemptions) or §334.123 of this title (relating to Statutory Exemptions for ASTs); or

(2) completely excluded from regulation under §334.4(a) of this title (relating to Commission Exclusions) or §334.124 of this title (relating to Commission Exclusions for ASTs);

(b) The requirements of this subchapter do not apply to corrective action specialists when the party claiming the exemption can show that corrective action services were completed on or prior to October 1, 1994. Any corrective action service commenced by a corrective action specialist on or after October 1, 1994, is subject to the requirements of this subchapter. Any corrective action service commenced by a corrective action specialist prior to October 1, 1994, which is still being performed on or after October 1, 1994, is subject to the requirements of this subchapter.

(c) The requirements of this subchapter do not apply to corrective action project managers when the party claiming the exemption can show that corrective action services were completed on or before January 1, 1995. Any corrective action service commenced by a corrective action project manager on or after January 1, 1995, is subject to the requirements of this subchapter. Any corrective action service commenced by a corrective action project manager prior to January 1, 1995, which is still being performed on or after January 1, 1995, is subject to the requirements of this subchapter.

(d) The requirements of this subchapter do not apply to:

(1) installation, repair, and removal of underground storage tanks when conducted and supervised by persons or entities registered or licensed in accordance with Subchapter I of this chapter (relating to Underground Storage Tank Contractor Registration and Installer Licensing); and

(2) the following limited activities, but only when such activities are performed as part of an underground storage tank permanent removal-from-service project conducted under the direct supervision of an on-site supervisor licensed to remove underground storage tanks under Subchapter I of this chapter (relating to Underground Storage Tank Contractor Registration and Installer Licensing), and further subject to all appropriate requirements and standards in this subchapter, including enforcement authority:

(A) subject to prior written TWC approval, excavation of contaminated soil when necessary for corrective action at the LPST site of an amount not to exceed 300 cubic yards of compacted materials (390 cubic yards of uncompacted materials) beyond the backfill unless specific prior written authorization from the TWC is granted for additional excavation yardage;

(B) sampling of the excavated materials described in subparagraph (A) of this paragraph, and the floor and walls of the area excavated as necessary to determine levels of contamination as required by Subchapter C of this chapter (relating to Technical Standards) or Subchapter D of this chapter (relating to Corrective Action and Release Reporting);

(C) passive aeration and necessary routine tilling and sampling of the excavated materials described in subparagraph (A) of this paragraph in accordance with applicable Texas Air Control Board regulations; and

(D) lawful disposal of the excavated materials described in subparagraph (A) of this paragraph.

(e) The requirements of this subchapter do not apply to:

(1) the provision of alternate water supplies;

(2) analysis of samples by a laboratory.

(f) The requirements of this subchapter do not apply to emergency abatement actions described in §334.454 of this title (relating to Exception for Emergency Abatement Actions) if done in compliance with §334.454.

(g) The requirements of this subchapter do not apply to facilities which are authorized to store or treat petroleum-substance waste from more than one LPST site under the provisions of Subchapter K of this chapter (relating to Petroleum Substance Waste).

(h) The requirements of this subchapter do not apply to owners or operators, their direct employees, parent companies, or subsidiaries who on behalf of the owner or operator coordinate with, manage, or supervise corrective action specialists or corrective action project managers, or coordinate with the commission, or review the corrective action reports. The tank owners or operators, their direct employees, parent companies, or subsidiaries who conduct corrective action services are subject to all provisions of this subchapter.

(i) On or after September 1, 1995, a qualified professional engineer, registered as an engineer in the State of Texas, may become registered as a corrective action project manager by submitting a signed and sealed written request to that effect to the commission. With said written request, said engineer shall also provide a copy of his or her certificate of registration as a professional engineer, and a written statement from the Texas State Board of Registration for Professional Engineers to the effect that the applicant is duly registered and currently licensed to practice engineering in the State of Texas, and that there is no indication that the applicant is not qualified to perform corrective action. An engineer who obtains registration as a corrective action project manager in this manner is subject only to the examination requirements, continuing education requirements, fees, and disciplinary procedures adopted by the Texas State Board of Registration for Professional Engineers, except as provided by §334.11(c)(3)(A) of this title (relating to Enforcement), and as such is generally exempt from the requirements in this subchapter which apply to corrective action project managers in the areas of examination, continuing education, fees and disciplinary procedures, except as provided by §334.11(c)(3)(A) of this title (relating to Enforcement).

Adopted October 11, 1995

Effective November 8, 1995

**§334.453. General Requirements and Prohibitions.**

(a) Requirements. Except as otherwise provided by this subchapter, on or after the effective date of these rules:

(1) all corrective action services covered by this subchapter must be offered to be performed by, and performed by or coordinated by a natural person or entity registered as a corrective action specialist; and

(2) all corrective action services covered by this subchapter must be supervised by a natural person registered as a corrective action project manager;

(3) all corrective action specialists and corrective action project managers shall perform corrective action services in accordance with accepted industry practices and standards and in accordance with all applicable local, state, and federal regulations;

(4) all reports submitted to the commission pertaining to corrective action covered by this subchapter must possess the signature of an authorized business representative of the corrective action specialist and the corrective action project manager, and the corrective action registration numbers for the corrective action specialist and corrective action project manager;

(5) any person or entity performing corrective action services as a corrective action specialist at an LPST site must prominently display their corrective action registration number and the executive director's LPST number for the site on all LPST bids, proposals, offers, and drawings.

(b) Prohibitions.

(1) Except as otherwise provided by this subchapter, on or after the effective date of these rules:

(A) no person shall offer to perform any corrective action service covered by this subchapter unless the person offering to perform the service:

(i) is duly registered under this subchapter as a corrective action specialist;  
or

(ii) is offering to perform the service under the coordination of a duly registered corrective action specialist;

(B) no person shall commence or perform any corrective action service covered by this subchapter unless the person commencing or performing the service is duly registered under this subchapter as a corrective action specialist;

(C) no person shall perform, direct, allow, or cause any corrective action service covered by this subchapter to be performed unless the corrective action service is being performed by or coordinated by a duly registered corrective action specialist;

(D) no person offering to perform corrective action service may enter into a contract for any corrective action service unless he provides the owner or operator or other person who directs, causes, or authorizes the service with notice of corrective action in the manner required by §334.455 of this title (relating to Notice to Owner or Operator);

(E) no person or entity who submits the following types of information to the executive director shall submit information which they know or reasonably should have known to be false or deceptive:

(i) an application for registration or renewal submitted to the executive director under this subchapter; or

(ii) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(iii) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(iv) an affidavit to the executive director regarding notice of corrective action under §334.455 of the title (relating to Notice to Owner or Operator).

(2) Except as otherwise provided by this subchapter, on or after the effective date of these rules:

(A) no person shall commence or perform any corrective action service covered by this subchapter unless the person commencing or performing the service is duly registered under this subchapter as a corrective action project manager;

(B) no person shall supervise the performance of any corrective action service covered by this subchapter unless the person supervising is duly registered under this subchapter as a corrective action project manager;

(C) no person shall perform, direct, allow, or cause any corrective action service covered by this subchapter to be performed unless the corrective action service is being supervised by a natural person duly registered under this subchapter as a corrective action project manager;

(D) no person or entity offering to perform or performing corrective action services as a corrective action specialist shall represent that they are registered under this subchapter or represent that any corrective action services they perform are subject to reimbursement by the commission unless the person or entity making such representation possesses a valid certificate of registration issued under this subchapter;

(E) no person or entity who is a registered UST contractor or a licensed installer or on-site supervisor pursuant to Subchapter I of this chapter (relating to Underground Storage Tank Contractor Registration and Installer Licensing) shall represent that they are authorized to perform any corrective action service covered by this subchapter except as provided under §334.452(d) of this title (relating to (Exemptions

from Subchapter J) unless that person or entity is registered as a corrective action specialist pursuant to this subchapter.

(c) Any violation of this section or any other requirements of this subchapter shall be subject to enforcement including administrative, civil, and/or criminal penalties as provided in §334.11 of this title (relating to Enforcement).

(d) Corrective action specialists and/or corrective action project managers may be held responsible and subject to enforcement including administrative, civil, and/or criminal penalties for any violation of this section or any other requirements of this subchapter by them or by any other person performing corrective action services under their supervision or coordination.

(e) Any penalty assessed or order issued under this section is cumulative of any other remedies available to the commission.

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**§334.454. Exception for Emergency Abatement Actions.**

(a) An owner or operator or other person may undertake such corrective action as may be necessary to abate any immediate threat to human health and safety or the environment caused by a release or threatened release without a registered corrective action specialist or a corrective action project manager, and a person who is not registered under this subchapter may provide or perform such services provided that the action is in compliance with this section.

(b) In order for this section to apply, the owner or operator or other person must:

(1) be able to demonstrate that the actions taken were necessary to protect against imminent danger to human health and safety by mitigating fire, explosion, and vapor hazards, by removing free product from structures, basements, sumps, etc., or performing other actions as deemed necessary by the executive director;

(2) notify the executive director of the emergency occurrence within 24 hours of commencing emergency abatement action;

(3) notify the local fire marshal (or state fire marshal if no local authority is available) within 24 hours of commencing emergency abatement action; and

(4) obtain the services of a registered corrective action specialist within ten days of commencing emergency action.

**§334.455. Notice to Owner or Operator.**

(a) A notice of corrective action must be provided by the corrective action specialist, in accordance with this section for any corrective action services which are commenced on or after October 1, 1994.

(b) The notice requirements of this section apply regardless of whether or not the person offering the services is working directly for an owner or operator. The notice of corrective action must be given to the owner or operator prior to the time when the offer to perform corrective action services is accepted.

(c) The notice must contain the following:

- (1) whether the person or entity is registered pursuant to this subchapter;
- (2) the person or entity's registration number;
- (3) proof of commercial liability insurance required in §334.456(2)(D)(i) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist);
- (4) the disclaimer required in subsection (f) of this section; and
- (5) a statement signed by the owner or operator and by a representative of the corrective action specialist which indicates both parties are aware of the registration requirements for corrective action specialists and corrective action project managers set forth in this subchapter, and that reimbursement will be in accordance with the provisions of Subchapter H of this chapter (relating to Interim Reimbursement Program) and in accordance with the published TWC reimbursable cost guidelines.

(d) The notice of corrective action must be on a form provided by the executive director. The person contracting with the owner or operator shall provide the owner or operator with a copy of the signed notice of corrective action.

(e) Within 15 days of the date on which the offer to perform corrective action services is accepted, the corrective action specialist shall submit to the executive director a copy of such written notice signed by the authorized representative of the corrective action specialist and by the owner or operator or their duly authorized agent.

(f) Any bid, proposal, or offer that indicates a company or person is a corrective action specialist must reproduce in its entirety the following disclaimer. The following disclaimer must be a part of any notice required by this section.

(1) The registration of a corrective action specialist by the Texas Water Commission does not constitute endorsement, licensing, or promotion of any corrective action specialist. Registration does not imply that the Texas Water Commission guarantees the quality of the work performed or that the cost of the work may be reimbursed.

(2) Reimbursement for approved work is subject to the eligibility requirements set forth in Subchapter H of this chapter (relating to Interim Reimbursement Program) and the Texas Water Commission's reimbursable cost guidelines. Charges exceeding the amount determined as reimbursable for that particular work item shall not be reimbursed by the commission.

**§334.456. Application for Certificate of Registration for Corrective Action Specialist.**

As determined by the executive director, an application for registration as a corrective action specialist shall meet the following requirements.

(1) The application shall be made on a form provided or approved by the executive director.

(2) The application shall include at a minimum:

(A) the applicant's business name, business mailing address and telephone number, permanent physical address;

(B) the business representative's name and title;

(C) the address, telephone number, and business representative for any branch office that will be operating under the issued certificate of registration;

(D) documentation of financial assurance, including:

(i) evidence of comprehensive general liability insurance designating the Texas Water Commission, Petroleum Storage Tank Division as the certificate holder in an amount of not less than \$1 million and of a type approved by the executive director; and

(ii) one of the following:

(I) a financial statement prepared in conformity with accounting principles as defined by the American Institute of Public Accountants, indicating an applicant's current (not more than 12 months old) net worth of not less than \$25,000 that is signed by the applicant's business representative; or

(II) other evidence of financial assurance which is determined by the executive director to be sufficient for the purposes of this section;

(E) documentation of quality of performance including one of the following:

(i) sworn statements, on forms approved by the executive director, from at least three references, not related by blood or marriage, for whom the applicant performed corrective action services, within the immediately preceding 24 months. Applicable corrective action experience shall not be limited to experience gained at LPST sites, but shall also include corrective actions conducted pursuant to the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Oil Spill Prevention and Response Act (OSPR); the Texas Water Code, Chapter 26, or any corrective action conducted under the auspices of the Texas Water Commission, the General Land Office, the Texas Railroad Commission, or the United States Environmental Protection Agency. These statements shall also attest to the applicant's job reliability and the client's satisfaction of performance. Such statements shall also include a description of the type of corrective action

services work including engineering, geology, or hydrogeology which was performed by the applicant and the physical address where the activity occurred; or

(ii) a written explanation indicating good cause as determined by the executive director for not providing the sworn statements required in clause (i) of this subparagraph. For the purposes of this subsection, an applicant's experience under the supervision of a registered corrective action project manager may be sufficient documentation of quality of performance if the executive director determines that the applicant had substantial involvement in the decision-making process during the performance of the work. The written explanation shall include a detailed description of three case histories of corrective action services performed by the applicant during the previous 24 months; or

(iii) other documentation of quality of performance which is determined by the executive director to be sufficient pursuant to this section.

(3) The applicant shall submit a notarized completed application that contains a sworn statement from the applicant attesting to the accuracy of the information provided to the executive director.

(4) The applicant shall submit payment for applicable fees as provided by §334.467 of this title (relating to Fee Assessments for Certificates of Registration).

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**§334.457. Application for Certificate of Registration for Corrective Action Project Manager.**

An application for registration as a corrective action project manager shall meet the following requirements.

(1) Applications for a certificate of registration shall be made on forms provided or approved by the executive director.

(2) Application for certificate of registration shall include at a minimum:

(A) business mailing address and telephone number, and permanent physical address;

(B) documentation of quality of performance including one of the following:

(i) sworn statements, on forms approved by the executive director, from at least three references, not related by blood or marriage, for whom the applicant has performed corrective action services, within the immediately preceding (24) months. Applicable corrective action experience shall not be limited to experience gained at LPST sites, but shall also include relevant professional experience derived while working in the oil and gas industry, and corrective actions conducted pursuant to the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Oil Spill Prevention and Response Act (OSPR); the Texas Water Code, Chapter 26, or any corrective action conducted under the auspices of the Texas Water Commission, the General Land Office, the Texas Railroad Commission, or the United States Environmental Protection

Agency. These statements shall also attest to the applicant's job reliability and the client's satisfaction of performance. Such statements shall also include a description of the type of corrective action services including engineering, geology, or hydrogeology which was performed by the applicant and the physical address where the activity occurred; or

(ii) a written explanation indicating good cause as determined by the executive director for not providing the sworn statements required in clause (i) of this subparagraph. For the purposes of this subsection, an applicant's experience under the supervision of a registered corrective action project manager may be sufficient documentation of quality of performance if the executive director determines that the applicant had substantial involvement in the decision-making process during the performance of the work. The written explanation shall include a detailed description of three case histories of corrective action services performed by the applicant during the previous twenty four (24) months; or

(iii) other documentation of quality of performance which is determined by the executive director to be sufficient pursuant to this section.

(3) At the time of applying for registration as a corrective action project manager, the applicant shall qualify under either option in subparagraph (A) or (B) of this paragraph:

(A) two years of experience in corrective action services, as described in paragraph (2)(B)(i) of this section, and passage of a registration examination prepared and administered by the commission or an entity authorized by the commission, and a bachelor's degree from an accredited college or university in a physical science, natural science, biological science, environmental science, engineering, applied geography, or in a subject directly relevant to the environmental field which is technical in focus (for each degree relied upon, the applicant shall include with the registration application an original official transcript from the college or university where the degree was taken);

(i) a bachelor's degree from an accredited college or university in a physical science, natural science, biological science, environmental science, engineering, applied geography, or in a subject directly relevant to the environmental field which is technical in focus (for each degree relied upon, the applicant shall provide with the registration application an original official transcript from the college or university where the degree was taken); or

(ii) a current Texas registration as a professional engineer. Upon approval by the executive director, the registration examination may be waived for persons who hold current Texas registration as a professional engineer;

(B) four years of experience in corrective action services, as described in paragraph (2) (B) (i) of this section, and the passage of a registration examination prepared and administered by the commission or an entity authorized by the commission.

(4) The applicant shall submit a notarized completed application that contains a sworn statement from the applicant attesting to the accuracy of the information provided to the executive director.

(5) The applicant shall submit payment for applicable fees as provided by §334.467 of this title (relating to Fee Assessments for Certificates of Registration).

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**§334.458. Review and Issuance of Certificates of Registration.**

(a) An application for a certificate of registration for a corrective action specialist is administratively complete when the executive director has received all the information required by §334.456 of this title (relating to Application for Certificate of Registration for Corrective Action Specialist). An application for a certificate of registration for a corrective action project manager is administratively complete when the executive director has received all the information required by §334.457 of this title (relating to Application for Certificate of Registration for Corrective Action Project Manager).

(b) Upon receipt of an application, the executive director shall review the application for administrative completeness. If he determines that the application is not administratively complete, he shall inform the applicant in writing within 45 days of any deficiency and inform the applicant what additional information is required for processing. The applicant shall have 30 days from the date noted on the executive director's written comments to submit the requested additional information. If the executive director does not receive all of the information required within the 30 days prescribed, he shall cease his review and return the application to the applicant without prejudice. An applicant whose application has been returned under this subsection may reapply for a certificate of registration at any time.

(c) The executive director shall issue the applicant a certificate of registration within 45 days if:

(1) his application is administratively complete; and

(2) the applicant meets the education and/or experience criteria required by §334.456 of this title (relating to Application for Certificate of Registration for Corrective Action Specialist) or §334.457 of this title (relating to Application for Certificate of Registration for Corrective Action Project Manager), as applicable.

(d) A certificate of registration issued under this subchapter is not transferable, and must be renewed annually as prescribed in §334.460 of this title (relating to Renewal of Certificate of Registration for Corrective Action Specialist and Registration for Corrective Action Project Manager).

**§334.459. Continuing Education Requirements for Corrective Action Project Managers.**

(a) A person must complete a minimum of 16 hours of continuing education instruction in order to renew the registration each time it is due for renewal. In order to count towards the required 16 hours, each hour of instruction used must have been completed within the 12 months immediately preceding the date on which he submits an administratively complete application for renewal. A single continuing education course may not be used for more than one renewal. "Hours of instruction" as used in this section refers to actual time spent in instruction, rather than credits assigned to a course.

(b) In order to be counted toward the continuing education requirement, each hour of instruction must be in:

(1) environmental contamination assessment or remediation at an LPST site or other types of relevant sites;

(2) handling, treatment, or recycling of contaminated media;

(3) sampling techniques, accepted protocol and quality assurance/quality control;

(4) groundwater hydrogeology;

(5) risk assessment applicable to corrective action for environmental contamination; or

(6) any other subject which has application in the field of assessment and remediation of LPST site contamination.

(c) The training and education courses prescribed in subsection (b) of this section shall be evaluated and accepted by the executive director and provided by educational institutions, governmental institutions, recognized professional organizations, or private businesses, including, but not limited to:

(1) National Ground Water Association;

(2) United States Environmental Protection Agency; or

(3) other recognized professional organizations, or private businesses designated by the executive director as eligible for use toward the continuing education requirements of this section.

(d) The training and educational courses may include instructional courses, seminars, workshops, and conferences.

(e) Courses taken to fulfill Occupational Safety and Health Agency requirements will not count towards the 16 hours.

(f) Corrective action project managers shall submit to the executive director a certificate of completion for the training and education courses required by this section each year with the application for renewal of registration. The certificate of completion shall be dated and signed by the designated provider.

**§334.460. Renewal of Certificate of Registration for Corrective Action Specialist and Corrective Action Project Manager.**

(a) Each certificate of registration issued under this subchapter shall expire one year from the original date of issuance or one year from the last date of renewal.

(b) The executive director shall notify each registered corrective action specialist and corrective action project manager in writing of the impending registration expiration at least 60 days prior to the expiration of the certificate of registration.

(c) The executive director shall provide application forms for renewal of corrective action specialist and corrective action project manager registration.

(d) An application for renewal of registration for a corrective action specialist is administratively complete when the executive director has received an application for renewal on a form provided by the executive director (which has been completed in a manner acceptable to the executive director); documentation of financial assurance as required by §334.456(2)(D) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist), except the documentation of quality of performance required under §334.456(2)(E) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist); and payment for applicable fees as provided by §334.467 of this title (relating to Fee Assessments for Certificates of Registration). An application for renewal of registration for a corrective action project manager is administratively complete when the executive director has received an application for renewal on a form provided by the executive director, completed in a manner acceptable to the executive director, and documentation of completion of continuing education requirements for the applicant corrective action project manager as required under §334.459 of this title (relating to Continuing Education for Project Managers), and payment of applicable fees as provided by §334.467 of this title (relating to Fee Assessments for Certificates of Registration). If the applicant has already submitted all necessary information to the executive director in a previous administratively complete application, the information need not be duplicated by the applicant in order for the renewal application to be administratively complete; provided that any applicable information regarding financial assurance, continuing education, or any other information for previous applications must be current to the date of the filing of the current renewal application in order for the application to be administratively complete. A properly completed application for renewal shall be submitted to the executive director 30 days prior to the expiration date. The renewal application must be accompanied by all information needed for the application to be administratively complete, including the required applicable information regarding financial assurance, or any other information necessary for the executive director to complete the renewal process.

(e) The executive director shall review, return, file, or deny an application for renewal in the same manner as an original application for registration.

(f) If an administratively complete application for renewal is submitted by the renewal applicant 30 days prior to the expiration date of the current registration, the current registration shall remain valid until the executive director issues the renewed certificate. If an administratively complete application for renewal is not filed at least 30 days prior to the expiration date of the current registration and the executive director has not processed the renewal application, the current registration shall expire on its original expiration date, but the registration may be renewed any time within one year of the expiration date. Corrective action services performed after expiration, but before renewal, shall be considered to have been performed without a proper registration under this subchapter.

(g) If a corrective action specialist does not apply for renewal of his registration within one year from the date his previous registration expires, he must submit all information required by §334.456 of this title (relating to Registration of Corrective Action Specialist). If a corrective action project manager does not apply for renewal of his registration within one year from the date his previous registration expires, he must submit all information required by §334.457 of this title (relating to Registration of Corrective Action Project Manager).

(h) Upon proper completion of the certificate renewal process, the executive director shall issue a certificate of registration indicating the new expiration date.

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**§334.461. Denial of Certificate of Registration.**

The executive director may deny a certificate of registration or request for renewal of certificate upon the following reasons, including, but not limited to:

(1) when an applicant registering or renewing registration as a corrective action specialist or corrective action project manager fails to timely and completely submit the information required by this subchapter for the registration or renewal he is seeking, the application may be denied without prejudice;

(2) when the executive director determines that an applicant has submitted information which he knows or reasonably should have known to be false or deceptive, whether the information is on:

(A) an application for registration or renewal submitted to the executive director under this subchapter;

(B) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(C) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(D) an affidavit to the executive director regarding notice of corrective action under §334.455 of the title (relating to Notice to Owner or Operator);

(3) when an applicant has performed, offered to perform, or supervised corrective action without possessing a valid certificate of registration pursuant to this subchapter;

(4) when the applicant has performed, or has allowed to be performed, corrective action or disposed of soils, tank systems, wastes, or other materials generated by corrective action in a manner prohibited by applicable state, local, or federal laws;

(5) when the applicant has not performed corrective action services in accordance with acceptable industry practices and standards; or

(6) for any other cause which in the opinion of the executive director constitutes reasonable grounds for denial.

**§334.462. Other Requirements.**

(a) All registered corrective action specialists shall notify the executive director in writing within 30 days of any change which occurs during the validated year. Such changes shall include, but are not limited to:

- (1) change of business name, address, telephone number;
- (2) change of physical address;
- (3) change in status of insurance;
- (4) change of business representative;
- (5) permanent cessation of corrective action business or corrective action activities;
- (6) a filing for reorganization or protection under federal bankruptcy laws; and
- (7) change in the number of branch offices conducting corrective action services in Texas, or change of branch office name, address, or telephone number.

(b) A registered corrective action specialist is required to maintain such financial responsibility required by §334.456(2)(D) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist) throughout the period that such person performs activities which require registration as a corrective action specialist under this subchapter.

(c) A corrective action project manager is required to complete 16 hours of continuing education as provided by §334.459 of this title (relating to Continuing Education for Corrective Action Project Managers).

(d) Compliance with the provisions of this subchapter by any person shall not relieve such person from the responsibility of compliance with all applicable regulations legally promulgated by the United States Environmental Protection Agency, United States Occupational Safety and Health Administration, United States Department of Transportation, Texas Air Control Board, Texas Department of Health, State Board of Insurance, General Land Office, Texas Commission on Fire Protection, the state fire marshal, Railroad Commission of Texas, Texas Department of Agriculture, State Comptroller, Texas Department of Public Safety, Texas Water Commission, and other federal, state, and local governmental agencies or entities having appropriate jurisdiction.

**§334.463. Grounds for Revocation or Suspension of Certificate of Registration.**

(a) The commission may revoke or suspend the certificate of registration of a corrective action specialist for reasons including, but not limited to:

(1) when a corrective action specialist submits information to the executive director which he knows or reasonably should have known to be false or deceptive, whether the information is on:

(A) an application for registration or renewal submitted to the executive director under this subchapter; or

(B) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(C) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(D) an affidavit to the executive director regarding notice of corrective action under §334.455 of the title (relating to Notice to Owner or Operator);

(E) any other report or document filed with the commission or any other governmental agency having applicable jurisdiction;

(2) when a corrective action specialist provides corrective action services covered by this subchapter without having the services supervised by a corrective action project manager duly registered under this subchapter;

(3) when a corrective action specialist or a person performing corrective action services under his supervision or coordination has performed corrective action or disposed of soils, tank systems, wastes, or other materials generated by corrective action in a manner prohibited by applicable state, local, or federal laws; or

(4) when a the corrective action specialist has failed to maintain commercial liability insurance required in §334.456(2)(D)(i) of this title (relating to Application for Certificate of Registration for Corrective Action Specialist);

(5) when a corrective action specialist or a person performing corrective action services under his supervision or coordination violates any requirement or prohibition of this subchapter;

(6) for any other cause which in the opinion of the executive director or commission constitutes reasonable grounds for suspension or revocation.

(b) The commission may revoke or suspend the certificate of registration of a corrective action project manager for reasons including, but not limited to:

(1) when a corrective action project manager submits information to the executive director which he knows or reasonably should have known to be false or deceptive, whether the information is on:

(A) an application for registration or renewal submitted to the executive director under this subchapter; or

(B) an application for reimbursement submitted to the executive director under Subchapter H of this chapter (relating to Interim Reimbursement Program);

(C) any report submitted to the executive director in the course of performing corrective action on an LPST site; or

(D) an affidavit to the executive director regarding notice of corrective action under §334.455 of the title (relating to Notice to Owner or Operator);

(E) any other report or document filed with the commission or any other governmental agency having applicable jurisdiction;

(2) when a corrective action project manager or a person performing corrective action services under his supervision has performed corrective action or disposed of soils, tank systems, wastes, or other materials generated by corrective action in a manner prohibited by applicable state, local, or federal laws; or

(3) when a corrective action project manager or a person performing corrective action services under his supervision or coordination violates any requirement or prohibition of this subchapter;

(4) for any other cause which in the opinion of the commission constitutes reasonable grounds for suspension or revocation.

**§334.465. Procedures for Revocation or Suspension of a Certificate of Registration.**

(a) A proceeding to revoke or suspend a certification of registration for a corrective action specialist or a corrective action project manager must be commenced by:

- (1) the executive director through the filing of a petition; or
- (2) the commission on its own motion.

(b) If the executive director determines good cause exists to revoke or suspend a certificate of registration of a corrective action specialist or a corrective action project manager, the executive director shall file a petition with the chief clerk and provide notice to the corrective action specialist or corrective action project manager. To the extent possible, the procedure required to assess administrative penalties under Chapter 337 of this title (relating to Enforcement) shall be followed to revoke or suspend a certification of registration under this subchapter.

(c) In response to a petition, or on its own motion to revoke or suspend a certificate of registration, the commission may:

(1) suspend a certification of registration issued under this subchapter for any period it deems reasonable and necessary under the circumstances, but typically 90 days for a first suspension, six months for a second suspension, and permanent revocation for a third suspension;

(2) place conditions on reinstatement of registration; and

(3) issue any other orders permitted by law.

(d) Revocation or suspension of a certificate of registration is cumulative of any other remedies available to the commission by law.

**§334.466. Reinstatement of a Certificate of Registration.**

(a) A certificate of registration which has not expired during the period that the holder of the certificate is under suspension shall be reinstated upon termination of the suspension period. The executive director shall notify the certificate holder of the registration's reinstatement at least ten days prior the expiration of the suspension period.

(b) If the period of suspension exceeds the expiration date of the certificate of registration, the holder of the certificate must reapply for a new registration pursuant to the requirements of §334.456 of this title (relating to Application for Certificate of Registration as Corrective Action Specialist) or pursuant to the requirements of §334.457 of this title (relating to Application for Certificate of Registration as Corrective Action Project Manager).

(c) The holder of a certificate that has been revoked by the commission must file a new application for registration under this subchapter. A corrective action project manager whose certificate of registration is revoked will be subject to the same continuing education requirements as a new registrant under §334.457 of this title (relating to Application for Certificate of Registration as Corrective Action Project Manager) at the time a new application is filed.

**§334.467. Fee Assessments for Certificates of Registration.**

(a) The following fee schedule shall apply to the registration of Corrective Action Specialists on or after September 1, 1995:

- (1) initial application fee - \$200;
- (2) annual renewal fee - \$175;
- (3) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees);
- (4) duplicate certificate of registration - \$10;
- (5) application to change certificate of registration - \$70;

(b) The following fee schedule shall apply to the registration of Corrective Action Project managers except qualified registered professional engineers as provided in §334.452(i) of this title (relating to Exemptions From Subchapter J):

- (1) initial application fee - \$100;
- (2) examination fee - \$50;
- (3) annual renewal fee - \$75;
- (4) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees);

(5) duplicate certificate of registration - \$10;

(c) An application for renewal shall be considered late when received by the executive director after the expiration date of the certificate and shall be subject to the late renewal fee.

(d) All fees addressed by this section are nonrefundable.

Adopted January 22, 1997

Effective February 14, 1997